IN THE

# Supreme Court of the United States

OCTOBER TERM, 1977

No. 77-1183

LEE J. ANDRUSS, JR., ET AL.,
*Respondents,*

*vs.*

CITY OF EVANSTON, ILLINOIS,
*Petitioner.*

## PETITION FOR WRIT OF CERTIORARI TO THE ILLINOIS SUPREME COURT.

JACK M. SIEGEL,
39 South LaSalle Street,
Chicago, Illinois 60603,
(312) 263-2968,
*Attorney for Petitioner,*
*City of Evanston.*

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The City of Evanston, an Illinois municipal corporation, petitions for writ of certiorari to review the decision of the Illinois Supreme Court decided October 5, 1977.

### OPINIONS BELOW.

The Illinois Supreme Court's decision of October 5, 1977, is reprinted in full as Appendix A to this petition.

### JURISDICTION.

The judgment of the Supreme Court of Illinois was entered on October 5, 1977. The order denying the petition for rehearing was entered on November 23, 1977. A copy of the denial of the petition for rehearing is reprinted as Appendix B to this petition.

The jurisdiction of this Court is invoked pursuant to the provisions of 28 U. S. C. § 1257. This petition for writ of certiorari has been filed in accordance with 28 U. S. C. § 2101.

## QUESTION PRESENTED FOR REVIEW.

1. Does the adoption of Public Act 78-1208, purporting to preempt the right of municipalities to license real estate brokers violate the Fourteenth Amendment of the United States Constitution?

## CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED.

This case involves the Fourteenth Amendment to the Constitution of the United States, the provisions of Public Act 78-1208, adopted by the Illinois General Assembly effective September 5, 1974, and the Evanston Fair Housing Ordinance. The relevant provisions are set forth in Appendix C to this petition.

## STATEMENT OF THE CASE.

(References are to Record on Appeal.)

The plaintiffs in this case are real estate brokers whose principal offices are in Cook County, Illinois. They bring this action as representatives of a class purporting to be all brokers registered with the State of Illinois under the provisions of the Real Estate Brokers and Salesmen License Act.

The defendant-counterplaintiff, City of Evanston, is a home rule municipality located in Cook County, Illinois. It has adopted and is enforcing a Fair Housing Ordinance which licenses real estate brokers doing business in the City of Evanston for the purpose of preventing discrimination based on race, religion and national origin. Among the sanctions imposed in the ordinance is the right to suspend or revoke a real estate broker's city license when found guilty of violating the provisions of the Fair Housing Ordinance.



Prior to the adoption of the 1970 Constitution, the defendant, City of Evanston, like all municipalities in Illinois, could exercise only the powers granted to it by specific legislative acts of the General Assembly. That status was changed by the 1970 Constitution wherein all home rule municipalities were given the power to exercise any power or perform any function pertaining to its government and affairs, including, but not limited to, the power to regulate for the protection of the public health, safety, morals and general welfare, to license, to tax, and to incur debt.

Prior however to the adoption of the Constitution of 1970, the General Assembly had delegated to the City of Evanston, and all other municipalities of this State, the power to license and tax certain occupations. Section 11-42-1 of Chapter 24 of the Illinois Revised Statutes provided prior to 1974 as follows:

> "The corporate authorities of each municipality may license, tax, and regulate auctioneers, private detectives, money changers, bankers, brokers, barbers, and the keepers or owners of lumber yards, lumber storehouses, livery stables, public scales, ice cream parlors, coffee houses, florists, detective agencies, barber shops. . ."

This statutory section had been construed to authorize the licensing and regulation of real estate brokers by municipalities. *Village of Itasca* v. *Luehring*, 4 Ill. 2d 426 (1954), and *Chicago Real Estate Board* v. *City of Chicago*, 36 Ill. 2d 530 (1967). The *Chicago Real Estate Board* case specifically involved a fair housing ordinance similar in many respects to the Evanston ordinance under consideration here.

In addition to the statutory section noted above, the General Assembly had prior to the adoption of the 1970 Constitution added additional sections having to do with fair housing provisions. Section 11-11.1-1 of Chapter 24 provided specifically as follows:

> "The corporate authorities of any municipality may enact ordinances prescribing fair housing practices, defining un-

fair housing practices, establishing Fair Housing or Human Relations Commissions and standards for the operation of such Commissions in the administering and enforcement of such ordinances, prohibiting discrimination based on race, color, creed, ancestry, national origin, or physical or mental handicap in the listing, sale, assignment, exchange, transfer, lease, rental or financing of real property for the purpose of the residential occupancy thereof, and prescribing penalties for violations of such ordinances.

"Such ordinances may provide for closed meetings of the Commissions or other administrative agencies responsible for administering and enforcing such ordinances for the purpose of conciliating complaints of discrimination and such meetings shall not be subject to the provisions of 'An Act in relation to meetings', approved July 11, 1957, as amended. No final action for the imposition or recommendation of a penalty by such Commissions or agencies shall be taken, except at a meeting open to the public.

"This amendatory Act of 1971 does not apply to any municipality which is a home rule unit."

Pursuant to this specific statutory grant of power and the home rule provisions of the Constitution, the City of Evanston had licensed and regulated real estate brokers under Chapter 25½ of the Code of the City of Evanston. This chapter as part of the licensing and regulatory system prohibited discrimination in real estate transactions.

Prior to the adoption of the 1970 Constitution, there was substantial exercise of concurrent power by the State through the Department of Registration and Education and municipalities in the licensing and regulating of certain occupations and professions. In the case of real estate brokers and salesmen, the power of the State was exercised through a registration provision in the State Statute. Under the new Constitution, these statutes remained in effect with respect to the State and, in addition, the City of Evanston as all other home rule municipalities was given direct power to license and regulate professions and occupations for the protection of the public health, safety,



morals and welfare, but could license for revenue purposes only under specific grants of power from the General Assembly.

On June 29, 1974, Public Act 78-1208 was adopted. This statute had been known as Senate Bill 1502. It became effective September 5, 1974. The statute was an amendment to the Real Estate Brokers and Salesmen License Act, approved September 20, 1973, as amended. It added Section 24 to and amended Sections 8.1, 8.3 and 15 of the statute. The pertinent provisions of that Act read as follows:

> "§ 24. *Public policy*. It is declared to be the public policy of this State, pursuant to paragraphs (h) and (i) of Section 6 of Article VII of the Illinois Constitution of 1970, that any power or function set forth in this Act to be exercised by the State is an exclusive State power or function. Such power or function shall not be exercised concurrently, either directly or indirectly, by any unit of local government, including home rule units, except as otherwise provided in this Act.
>
> "Nothing in this Section shall be construed to affect or impair the validity of Section 11-11.1-1 of the 'Illinois Municipal Code', approved May 29, 1961, as amended or to deny to the corporate authorities of any municipality the powers granted in that Act to: enact ordinances prescribing fair housing practices, defining unfair housing practices, establishing Fair Housing or Human Relations Commissions and standards for the operation of such commissions in the administration and enforcement of such ordinances; prohibiting discrimination based on race, color, creed, ancestry, national origin or physical or mental handicap in the listing, sale, assignment, exchange, transfer, lease, rental or financing of real property for the purpose of the residential occupancy thereof; and prescribing penalties for violations of such ordinances."

On June 29, 1974, Senate Bill 1503 was also adopted by the General Assembly. Senate Bill 1503 would have amended Section 11-42-1 of Chapter 24 set forth above by specifically exempting real estate brokers from the enumeration of occupations subject to licensing, taxing and regulating by municipal-

ities. Senate Bill 1503 was vetoed by the Governor and no attempt was made to override the veto.

The role of the City of Evanston in the licensing and regulation of real estate brokers has been extensive in the past. The Illinois Supreme Court has on several occasions had before it cases arising out of the Evanston Fair Housing Review Board regulation of real estate brokers. *Nowicki* v. *Fair Housing Review Board*, 62 Ill. 2d 11; *Homefinders* v. *City of Evanston*, 65 Ill. 2d 108 (1976). Similar cases have been decided by the Appellate Court involving the same ordinance. *Nowicki* v. *Evanston Fair Housing Review Board*, 39 Ill. App. 3d 109 (1976); *Quinlan and Tyson* v. *City of Evanston*, 25 Ill. App. 3d 879 (1975).

Section 25½-10 of the Code of the City of Evanston provided for standards of conduct affecting real estate brokers, which included the prohibition against certain acts which resulted in discriminatory practices by real estate brokers based on race, color, religion or national origin. Among the penalties for such discriminatory acts was the right by the City to suspend or revoke the license of real estate brokers. The ordinance has effectively prevented discrimination by real estate brokers based on race, color, religion or national origin. The sanctions including the possibility of revocation and suspension of brokers' licenses has been effective in preventing discrimination.

Similar ordinances preventing discrimination on grounds of race, color, religion or national origin by real estate brokers have been adopted by more than 25 cities and villages in the State of Illinois, including the other defendants in this suit, the City of Chicago, the Village of Park Forest, the Village of Elmwood Park, and the Village of Flossmoor.

The action was instituted by a complaint for declaratory judgment and injunction. The complaint alleged that the defendant, municipalities, had been preempted from enforcing local ordinances licensing and regulating real estate brokers by virtue of Public Act 78-1208. In its answer the City of



Evanston denied the allegations and raised several defenses relating to state statutory and constitutional provisions. It also raised as an affirmative defense the allegation that if the statute was construed to prevent the defendant from licensing and regulating real estate brokers in accordance with its fair housing ordinance, then Public Act 78-1208 was unconstitutional in that it violated the Fourteenth Amendment to the Constitution of the United States in that it constituted state action to encourage discrimination based upon race, color or national origin (C66).

Evanston also filed a counterclaim seeking to enforce its ordinance licensing and regulating real estate brokers as part of its fair housing ordinance. Among the allegations of the counterclaim, Evanston alleged that, if Public Act 78-1208 was construed to have removed the right of the City of Evanston to license and regulate real estate brokers, the statute would violate the Fourteenth Amendment in that it constituted state action by permitting discrimination on the part of real estate brokers on the grounds of race, color, religion or national origin (C72). The City went on to allege that Chapter 25½ of the Code of the City of Evanston, in which the licensing provisions were found, is a fair housing ordinance which had been enacted to prohibit discrimination on grounds of race, color, religion, or national origin of real estate brokers, and that the ordinance had effectively prohibited the discriminatory practices by real estate brokers. It was further alleged that the right to suspend or revoke the licenses was among the penalties for discriminatory acts, and that that sanction had been effective in preventing discrimination and was absolutely essential to the enforcement of fair housing ordinances.

Evanston alleged that similar ordinances had been adopted by more than 25 municipalities in the Chicago metropolitan area, including the right to suspend or revoke real estate brokers' licenses in case they engaged in discriminatory acts, and that the sanction had been an effective method of preventing discriminatory acts based on color, race, religion or national origin.

The City then alleged that the removal of the power to suspend or revoke real estate brokers' licenses by municipalities for discriminatory acts would constitute an authorization by the state legislature to discriminate and constitute state action in violation of the Fourteenth Amendment (C72-C73).

The trial court granted the plaintiffs' motion for summary judgment, and no evidence was taken. The trial court in its final judgment order made no reference to the federal constitutional violation alleged by the City of Evanston both in its answer and counterclaim. The trial court merely found that the local ordinances of the Illinois municipalities purporting to license and regulate real estate brokers or real estate salesmen were illegal, unenforceable and void (C380).

The case was appealed to the Illinois Supreme Court, which, notwithstanding the extensive brief and argument presented by the City of Evanston, directed its opinion primarily to the City of Chicago. Here again, the Supreme Court totally ignored the Fourteenth Amendment question raised by the City both at the trial level and in the Supreme Court. No mention of the Fourteenth Amendment question was made either in the opinion of the Supreme Court or in the final judgment order of the trial court.

**REASONS RELIED UPON FOR ALLOWANCE OF THE WRIT.**

The writ should be granted in this case because the decision of the Illinois Supreme Court, which totally ignores the Fourteenth Amendment question, has the effect of removing the only viable sanction in local fair housing ordinances against racial discrimination on the part of real estate brokers. This Court has recognized that federal civil rights laws specifically preserve and defer to local fair housing laws. *Hunter* v. *Erickson,* 393 U. S. 385, 388 (1969), 21 L. ed. 2d 616, 620. This Court has universally held that, when a state law although neutral on its face has an impact on a minority, such a law is subject to strict



scrutiny and cannot be sustained absent a compelling state interest.

The impact of the opinion of the Illinois Supreme Court, if permitted to stand, would be to render meaningless the provisions of the many municipal ordinances which have been enacted for the purpose of preventing racial discrimination on the part of real estate brokers. The record below demonstrated clearly that the purported effort to preempt municipal power in this area results in a practical vacuum as far as effective fair housing enforcement is concerned. The state agency now purportedly policing real estate brokers is not only undermanned but has a history of total failure in the fair housing field. The State of Illinois has no fair housing law as such. Every attempt by the General Assembly to pass such a law has failed. The local communities were given specific statutory authority before the 1970 home rule constitution to enact such ordinances, however, and the uncontroverted pleadings in this case indicate that those fair housing laws have been successful in preventing discrimination in the communities that have adopted such ordinances.

There of course can be no question that state action is involved. If, as the Illinois Supreme Court indicates, it was the intention of the Illinois General Assembly to withdraw control over licensing and regulating of real estate brokers in local fair housing ordinances, then such an act by the General Assembly was a clear instance of state action to promote and encourage discrimination.

I.

**THE PREEMPTION OF MUNICIPAL POWER TO LICENSE AND REGULATE REAL ESTATE BROKERS AS PART OF FAIR HOUSING ORDINANCES VIOLATES THE FOURTEENTH AMENDMENT.**

The Illinois Supreme Court's opinion determined that the General Assembly specifically intended to withdraw from

municipalities the right to license and regulate real estate brokers and salesmen in fair housing ordinances. This conclusion had the effect of withdrawing a power which had existed in Illinois municipalities for over 100 years as a result of direct delegation by the General Assembly. *Chicago Real Estate Board* v. *City of Chicago,* 36 Ill. 2d 530 (1967); *Village of Itasca* v. *Luehring,* 4 Ill. 2d 426 (1954).

The importance of fair housing ordinances, including provisions regulating the licensing of real estate brokers for communities such as the City of Evanston, cannot be overestimated. The City of Evanston has a population of approximately 80,000. It lies just north of the City of Chicago in Cook County, Illinois. Approximately 20% of its population is black. Due in large measure to vigorous enforcement of its fair housing ordinance, black citizens reside all over the City of Evanston and the pattern of segregation which originally existed has been successfully broken. As indicated above, the City has frequently resorted to court action, including appeals to the State Appellate and Supreme courts in order to sustain its fair housing ordinance.

The actions of the Illinois General Assembly in depriving the City of Evanston and other similarly situated municipalities of the right to license real estate brokers and employ the suspension or revocation of such licenses as a sanction for the enforcement of fair housing ordinances constitutes a serious if not fatal blow to such fair housing ordinances. It is in this context that this Court must consider whether or not the state action by the General Assembly does in fact constitute a violation of the Fourteenth Amendment.

This Court has recognized that situations which could involve violations of the Fourteenth Amendment must be considered in their specific context. These include the immediate objective, the ultimate effect, the historical context, and the conditions existing prior to its enactment. *Reitman* v. *Mulkey,* 387 U. S. 369 (1967), 18 L. ed. 2d 830, 834. The uncontroverted con-



text in which the act of the General Assembly took place clearly indicates that withdrawing this important enforcement power from local governments has a racially discriminatory effect.

This Court has emphasized that the 1968 Civil Rights Act specifically prefers and defers to local fair housing laws, and that there was no attempt to preempt local legislation *Hunter* v. *Erickson,* 393 U. S. 385, 388 (1969), 21 L. Ed. 2d 616, 620. Fair housing laws passed by local municipalities are particularly suitable to deal with problems of discrimination which are local in character. What the Illinois General Assembly has done is to render meaningless statutory phrases and constitutional provisions, which on their face are intended to promote fair housing and nondiscriminatory treatment, while withdrawing the only effective means of enforcing nondiscrimination in housing on the local level.

It is clear that the statute here in question is unconstitutional, invalid and void because it constitutes state action permitting and encouraging discrimination on the part of real estate brokers in violation of the Fourteenth Amendment. This constitutional infirmity was raised as an affirmative defense in the City's answer and is part of its counterclaim. It was not passed upon by the trial court, and it was totally ignored by the Illinois Supreme Court in its opinion.

The Illinois Supreme Court has not always been as insensitive to the problem as it was in this latest decision. In a landmark decision, *Chicago Real Estate Board* v. *City of Chicago,* 36 Ill. 2d 530 (1967), the Court held that under its power to license and regulate real estate brokers, a municipality has the right to adopt a fair housing ordinance, including the power to prohibit discrimination on grounds of color, race or religion. The Court in that case reviewed the history of racial discrimination in the City of Chicago and concluded that real estate brokers played an important role in establishing and perpetuating housing discrimination in Chicago on grounds of color. At page 550, the Court said:

"Further justification for designating real estate brokers as the class to whom the ordinance applies appears from the evidence in the record showing the role of such brokers in establishing and perpetuating housing discrimination in Chicago on grounds of color. These discriminatory practices were not limited to the open avowals of discrimination by persons who have died, as plaintiffs suggest. On the contrary, the facts detailed at the outset of this opinion show that up until 1963, when this ordinance was adopted, real-estate brokers did not show listings in white neighborhoods to Negroes, even though there were no restrictions in the brokers' management or sales contracts with owners.

"It would be a denial of experience if we were to equate the broker's role with that of an individual property owner who engages in isolated transactions, and not for hire. These 'real differences' between the class included within the prohibition of the law and the class excluded are not difficult to perceive. They relate to the power and degree of exercising discrimination and of affecting the housing market, and are therefore, closely related to the purpose of the law. The action of the municipality cannot be deemed to have created an arbitrary classification."

Thus, the Court recognized the importance of municipal regulation of real estate brokers in the fight against racial discrimination. The ordinance of the City of Evanston like the ordinances of some 25 other communities provides for the revocation and suspension of real estate brokers who discriminate based on grounds of race, religion and national origin.

It was alleged in the counterclaim and uncontroverted for the purposes of the motion for summary judgment that this power to suspend or revoke real estate brokers licenses has been effective in preventing discrimination. It was also alleged that similar ordinances adopted by more than 25 other cities and villages, including the City of Chicago, have been an effective method of preventing discriminatory acts based on race, color, religion or national origin by real estate brokers in these other communities.



Thus, on the state of the record, it stands admitted that the local ordinances, including their provisions for suspension or revocation of licenses, have been an effective method of preventing discrimination based upon race. Under these conditions, we suggest that under the authority of *Reitman* v. *Mulkey*, 387 U. S. 369 (1967), 18 L. Ed. 2d 830, Senate Bill 1502 constitutes State action which promotes or encourages racial discrimination in violation of the Fourteenth Amendment. In that case this Court held that a constitutional provision which prevented the State or any agency from abridging the right of a person to decline to sell, lease or rent property to such persons as he at his discretion may choose was invalid under the Fourteenth Amendment. The Court pointed out that it was necessary to sift the facts and weigh circumstances on a case-by-case basis to determine whether the State's involvement constituted State action.

The Court at page 380 indicated the necessity to assess potential impact of official action. It discussed the cases of *Burton* v. *Wilmington Parking Authority*, 365 U. S. 715 (1961), 6 L. ed. 2d 45, *Peterson* v. *City of Greenville*, 373 U. S. 244 (1963), 10 L. ed. 2d 323, and *Robinson* v. *Florida*, 378 U. S. 153 (1964), 12 L. ed. 2d 771, where the Court had found state action in encouraging discrimination. The Court at page 380 concluded:

"None of these cases squarely controls the case we now have before us. But they do illustrate the range of situations in which discriminatory state action has been identified. They do exemplify the necessity for a court to assess the potential impact of official action in determining whether the State has significantly involved itself with invidious discriminations."

In his concurring opinion in *Reitman*, Mr. Justice Douglas pointed out the particular significance of the regulation of real estate brokers. At page 381, he said:

"Real estate brokers and mortgage lenders are largely dedicated to the maintenance of segregated communities.

Realtors commonly believe it is unethical to sell or rent to a Negro in a predominantly white or all-white neighborhood, and mortgage lenders throw their weight alongside segregated communities, rejecting applications by members of a minority group who try to break the white phalanx save and unless the neighborhood is in process of conversion into a mixed or a Negro community. We are told by the Commission on Civil Rights:

> 'Property owners' prejudices are reflected, magnified, and sometimes even induced by real estate brokers, through whom most housing changes hands. Organized brokers have, with few exceptions, followed the principle that only a "homogeneous" neighborhood assures economic soundness. Their views in some cases are so vigorously expressed as to discourage property owners who would otherwise be concerned only with the color of a purchaser's money, and not with that of his skin. . .' "

At page 384, Justice Douglas continued:

"Zoning is a state and municipal function. See Euclid v. Ambler Co., 272 US 365, 389, et seq, 71 L ed 303, 311, 47 S Ct 114, 54 ALR 1016; Berman v. Parker, 348 US 26, 34-35, 99 L ed 27, 38, 39, 75 S Ct 98. When the State leaves that function to private agencies or institutions which are licensees and which practice racial discrimination and zone our cities into white and black belts or white and black ghettoes, it suffers a governmental function to be performed under private auspices in a way the State itself may not act. The present case is therefore kin to Terry v. Adams, 345 US 461, 466, 97 L ed 1152, 1159, 73 S Ct 809, where a State allowed a private group (known as the Jaybird Association, which was the dominant political group in county elections) to perform an electoral function in derogation of the rights of Negroes under the Fifteenth Amendment.

Leaving the zoning function to groups which practice racial discrimination and are licensed by the States constitutes state action in the narrowest sense in which Shelley v. Kraemer, supra, can be construed."



He then pointed out at page 385 the particular sensitivity of the licensing function. What he said about licensing real estate brokers in California is particularly pertinent to the situation in Illinois. He said:

> "Under California law no person may 'engage in the business, act in the capacity of, advertise or assume to act as a real estate broker or a real estate salesman within this State without first obtaining a real estate license." Calif Bus & Prof Code § 10130. These licensees are designated to serve the public. Their licenses are not restricted, and could not be restricted, to effectuate a policy of segregation. That would be state action that is barred by the Fourteenth Amendment. There is no difference, as I see it, between a State authorizing a licensee to practice racial discrimination and a State, without any express authorization of that kind nevertheless launching and countenancing the operation of a licensing system in an environment where the whole weight of the system is on the side of discrimination. In the latter situation the State is impliedly sanctioning what it may not do specifically."

When the State or municipality is involved in a licensing or regulatory pattern which in effect permits real estate brokers to operate, the removal of a prohibition against discrimination constitutes State action within the meaning of the repeated decisions of the United States Supreme Court. The State or the municipality in effect is granting a license to discriminate when it permits its licensees to perpetuate a discriminatory pattern with immunity. Thus, in the case of *Moose Lodge No. 107* v. *Irvis*, 407 U. S. 163 (1972), 32 L. Ed. 2d 627, this Court at page 637 said:

> "Our cases make clear that the impetus for the forbidden discrimination need not originate with the State if it is state action that enforces privately originated discrimination. Shelley v. Kraemer, supra. The Court held in Burton v. Wilmington Parking Authority, supra, that a private restaurant owner who refused service because of a customer's race violated the Fourteenth Amendment, where the restaurant was located in a building owned by a state created

parking authority and leased from the authority. The Court, after a comprehensive review of the relationship between the lessee and the parking authority concluded that the latter had 'so far insinuated itself into a position of interdependence with Eagle [the restaurant owner] that it must be recognized as a joint participant in the challenged activity, which, on that account, cannot be considered to have been so "purely private" as to fall within the scope of the Fourteenth Amendment.' 365 U.S., at 725, 6 L.Ed.2d at 52."

In the case of *Adickes* v. *Kress & Co.*, 398 U. S. 144 (1970), 26 L. Ed. 2d 142, this Court said at page 150:

"Few principles of law are more firmly stitched into our constitutional fabric than the proposition that a State must not discriminate against a person because of his race or the race of his companions, or in any way act to compel or encourage racial segregation."

By removing the most important sanction to be employed against real estate brokers who discriminate, the statute in this case encourages racial discrimination. The equal protection clause of the Fourteenth Amendment reaches the exercises of State power, however manifested, whether exercised directly or through subdivisions of the State, regardless of whatever agency of the State takes the action. *Avery* v. *Midland County*, 390 U. S. 474 (1968), 20 L. Ed. 2d 45, 50. See also, *Lombard* v. *Louisiana*, 373 U. S. 267 (1963), 10 L. Ed. 2d 338; *Robinson* v. *Florida*, 378 U. S. 153 (1964), 12 L. Ed. 2d 771; and *Burton* v. *Wilmington Park Authority*, 365 U. S. 715 (1961), 6 L. Ed. 2d 45.

In the *Burton* case, this Court held that the State could not effectively abdicate its responsibilities under the equal protection clause of the Fourteenth Amendment by either ignoring them or effectively failing to discharge them. At page 52, this Court said in referring to the obligations of the Wilmington Park Authority as a state agency under the Fourteenth Amendment:



"But no State may effectively abdicate its responsibilities by either ignoring them or by merely failing to discharge them whatever the motive may be. It is of no consolidation to an individual denied the equal protection of the laws that it was done in good faith. Certainly the conclusions drawn in similar cases by the various Courts of Appeals do not depend upon such a distinction. By its inaction, the Authority, and through it the State, has not only made itself a party to the refusal of service, but has elected to place its power, property and prestige behind the admitted discrimination."

In the case of *Hunter* v. *Erickson*, 393 U. S. 385 (1969), 21 L. Ed. 2d 616, this Court had before it a comparable situation. In that case the City of Akron had amended its city charter to provide that any ordinance enacted by the city council dealing with racial, religious or ancestral discrimination in housing would not be effective unless approved by a majority of the city voters at a regular or general election. This Court, after noting as indicated above, that the Civil Rights Acts should not be construed to preempt local open housing legislation, went on to note that the core of the Fourteenth Amendment is the prevention of meaningful and unjustified official distinctions based on race. The Court noted that the provisions of the charter requiring a referendum on nondiscrimination ordinances "nevertheless disadvantages those who would benefit from laws barring racial, religious, or ancestral discriminations as against those who would bar other discriminations or who would otherwise regulate the real estate market in their favor." 393 U. S. 385, 391. The Court went on to say at page 392:

"Likewise, insisting that a State may distribute legislative power as it desires and that the people may retain for themselves the power over certain subjects may generally be true, but these principles furnish no justification for a legislative structure which otherwise would violate the Fourteenth Amendment."

The argument that the legislature has a right to distribute its power as it so desires and to take away the licensing power from

municipalities with respect to real estate brokers and vest such power exclusively in a state agency is of no avail when the result of that act is clearly to impose a disadvantage on a minority group. As the Court noted in *Hunter*, the majority needs no protection against discrimination. The Court in *Hunter* concluded that the charter provision discriminated against minorities and constitutes a real, substantial and invidious denial of the equal protection of the laws.

The impact of taking away municipal authority to discipline real estate brokers for racial discrimination was clearly spelled out in the Debates on the Bill in the Illinois House. Representative Joseph Lundy in addressing himself to the Bill pointed out:

> "Now as anybody who has worked in the area of fair housing knows, enforcement is the guts of fair housing. It doesn't do any good to put down prohibitions on a piece of paper, if you haven't got an enforcement mechanism that's going to make it work. And that is all we are doing with this amendment, is putting words on paper. I have here some recent figures from the Department of Registration and Education, the Regulatory Division, relating to the enforcement personnel which are available to the Department. The Department of R & E now has a total of professional licensed investigators of eight. Eight professional licensed investigators. There are 24,000 licensed brokers in Illinois. There are 22,000 licensed salesmen."

Lundy subsequently went on to say:

> "Finally, as I indicated in connection with Amendment No. 1, the Department of R & E simply does not have the personnel to effectively enforce fair housing at the state level. It's something, if it's going to be done effectively, it's got to be done at the local level."

The comments of Representative Washington in the debates on Senate Bill 1503, subsequently vetoed by the Governor, are also pertinent to the point raised. Representative Washington said:

> "Because, let's face it, the history of discriminatory housing in the City of Chicago, County of Cook, the State of Illinois, and throughout the entire country, has centered around the real estate brokers. I know it and everybody who's been engaged in this field knows. They are not only the perpetrators of discrimination in fair housing, but they are the instigators of it. And in many cases they instill fear in the minds and hearts of people when new groups want to move in when such fear didn't exist before. Why do you think we passed a block busting bill? Why? Because of arrogant, ruthless, moneygrabbing real estate brokers. I'm not trying to indict the entire profession, but too many of the profession, my dear fellow—you'll know who I'm talking to, too many of that profession, too many in that profession have promoted and fermented discrimination in housing. You know it, I know it, and that's why we're zeroing in on that industry by this amendment. Let's don't play games with people. There is a pattern of conspiracy and discrimination on the part of the real estate brokers in Cook County which has existed there throughout my entire lifetime and I'm afraid it's going to continue unless this legislature makes it abundantly clear to them that this House is contrary to that. I support this amendment."



The Illinois Supreme Court had before it a related question in the case of *Chapman* v. *Watson*, 40 Ill. 2d 408 (1968) where prior to the present amendment of the State statute the Director of Registration and Education had promulgated a rule prohibiting discrimination on the part of real estate brokers and real estate salesmen. The plaintiffs, real estate brokers, sought to enjoin enforcement of the rule. The Court after reviewing the history of racial discrimination in the State dismissed a complaint in equity without getting to the question of the constitutionality of the rule. The Court noted the public policy against racial discrimination. At page 414, the Court said:

> "In our opinion settled principles of equity jurisdiction require that the plaintiffs' actions be dismissed, and we therefore express no opinion upon the validity of Rule V or the other constitutional issues that have been raised. Those actions rest entirely upon the claim that Rule V

illegally interferes with the broker's contracts with their clients. But the unique characteristic of those contracts is that their enforcement is forbidden by the equal-protection clause of the fourteenth amendment. *Shelley* v. *Kraemer*, 334 U.S. 1, 92 L.Ed. 1161, 68 S.Ct. 836; *Hurd* v. *Hodge*, 334 U.S. 24, 92 L.Ed. 1187, 68 S.Ct. 847; *Barrows* v. *Jackson*, 346 U.S. 249, 97 L.Ed. 1586, 73 S.Ct. 1031.

* * * * *

"The opinion in *Shelley* v. *Kraemer* emphasized the public policy that forbids enforcement of such agreements: 'It cannot be doubted that among the civil rights intended to be protected from discriminatory state action by the Fourteenth Amendment are the rights to acquire, enjoy, own and dispose of property. Equality in the enjoyment of property rights was regarded by the framers of that Amendment as an essential pre-condition to the realization of other basic civil rights and liberties which the Amendment was intended to guarantee.' *Shelley* v. *Kraemer*, 334 U.S. at 10, 92 L.Ed. at 1179."

The Court also relied on the case of *Jones* v. *Alfred H. Mayer Co.*, 392 U. S. 409 (1968), 20 L. Ed. 2d 1189.

We respectfully submit that Public Act 78-1208 is state action which violates the Fourteenth Amendment to the Constitution, viewed in the context of the role of real estate brokers in perpetuating discrimination, and in light of the facts which are admitted showing that the power to suspend and revoke the licenses of brokers who discriminate has been an effective means of preventing discrimination. It may well be that the entire purpose of the Act was to remove the threat of local license suspension or revocation in cases of racial discrimination. Certainly, this step backward cannot be squared with the strong holdings of this Court which set forth unequivocally the basic rule of law that the State may not covertly or by inaction or by repeal of previous actions give a license to discriminate or encourage such discrimination in any form.



## CONCLUSION.

This Court should grant the writ of certiorari because the opinion of the Illinois Supreme Court in ignoring the Federal constitutional question is clearly contrary to the holdings of this Court in a long line of decisions, including *Reitman* v. *Mulkey*, 387 U. S. 369 (1967), 18 L. Ed. 2d 830, *Adickes* v. *Kress & Co.*, 398 U. S. 144 (1970), 26 L. Ed. 2d 142, and *Hunter* v. *Erickson*, 393 U. S. 385 (1969), 21 L. Ed. 2d 616. The Illinois Supreme Court's opinion means in effect that the municipality's power to insure fair housing has been dealt a crippling if not fatal blow. The real estate industry, which historically has been in the forefront of encouraging and promoting discrimination, has succeeded at the level of the Illinois General Assembly in removing the most meaningful sanction against their continued exploitation of minority groups. It is ironic that at this late date, when civil rights has become so much an accepted part of our national way of life, the Illinois General Assembly has been permitted to take such a step backward.

For the City of Evanston this is not merely an academic matter. It has dedicated itself to a program of fair and open housing for all citizens. It has successfully striven for and maintained a truly integrated community. The record in the case below was absolutely clear. The attempt to cripple the fair housing ordinance by removing the sanctions against real estate brokers in the most sensitive of areas, *i.e.*, license suspension and revocation, meant that for all practical purposes real estate brokers are now free to discriminate at will.

The Illinois Supreme Court refused to even deal with this most important of constitutional issues. Instead, it rendered a superficial opinion which did not touch the major contentions of the City of Evanston and totally ignored the most vital contention of all—the assertion based upon fact that the emasculation of the fair housing ordinance would render practically

meaningless the heretofore successful efforts to maintain integration and open housing in this community.

The Illinois Supreme Court has rendered an opinion on an extremely important and far-reaching question. That opinion, by ignoring the basic issue raised, is clearly in conflict with the decisions of this Court. It is a vitally important question which should be settled by this Court and the petition should be granted.

Respectfully submitted,

JACK M. SIEGEL,
39 South LaSalle Street,
Chicago, Illinois 60603,
(312) 263-2968,
*Attorney for Petitioner,*
*City of Evanston.*



## APPENDIX A.

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### OPINION FILED SEPTEMBER TERM, 1977

Docket Nos. 48832, 48841 cons.—Agenda 37—May 1977.
LEE J. ANDRUSS, JR., *et al., Appellees,* v. THE CITY OF EVANSTON *et al., Appellants.*

MR. JUSTICE DOOLEY delivered the opinion of the court:

The defendant city of Chicago, through an ordinance (Municipal Code of Chicago, secs. 113–23, 113–29), undertook to provide that it shall be unlawful to engage in the business of a real estate broker without having first been licensed by the State and then by the city of Chicago. An annual license fee for a city of Chicago license was $25.

The other defendants, the city of Evanston, the village of Park Forest, the village of Elmwood Park, and the village of Flossmoor, also enacted similar local laws pertaining to real estate brokers.

The question here is whether such licensing is the exclusive power of the State and beyond that of a home rule unit. Since this issue is so broad, what we say concerning the city of Chicago ordinance will be applicable to all local units of government.

The question arises in an action in the circuit court of Cook County by the plaintiffs, real estate brokers on behalf of themselves and all other real estate brokers in Cook County registered under the Real Estate Brokers and Salesman License Act (Ill. Rev. Stat. 1975, ch. 114½, par. 101 *et seq.*). Declaratory and injunctive relief, as well as repayment of all fees collected by the defendants, were sought. The city of Evanston filed a counterclaim alleging it had the power to license persons seeking to act as real estate brokers. It seeks an injunction against the plaintiffs

doing business as brokers in Evanston and a declaration that the ordinance was constitutional and enforceable. The counterclaim is determined by the issue in the principal suit. In substance, plaintiffs' complaint was that the General Assembly, by a statute effective September 5, 1974, preempted to the State the exclusive power to license real estate brokers.

The circuit court held all local ordinances of the local governmental units were void and directed that each municipality segregate and deposit into an interest-bearing account the sums collected. The court reserved the question of refund.

The city of Chicago and the city of Evanston filed notices of appeal to the appellate court. Their motion for direct appeal to this court under Rule 302(b) was granted. (58 Ill. 2d R. 302(b).) The village of Park Forest has joined in the appeal.

Sections 6(a), 6(h), and 6(i) of Article VII of the 1970 Illinois Constitution provide:

> "(a) * * * Except as limited by this Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; to license; to tax; and to incur debt."
>
> (h) The General Assembly may provide specifically by law for the exclusive exercise by the State of any power or function of a home rule unit other than a taxing power or a power or function specified in subsection (*l*) of this Section.
>
> (i) Home rule units may exercise and perform concurrently with the State any power or function of a home rule unit to the extent that the General Assembly by law does not specifically limit the concurrent exercise or specifically declare the State's exercise to be exclusive."

By an amendment to the Real Estate Brokers and Salesmen License Act which became effective September 5, 1974 (Pub. Act 78-1208, 1974 Ill. Laws 1164), a new section was added



to the statute (Ill. Rev. Stat. 1975, ch. 114½, par. 124). This provides as follows:

> "* * * It is declared to be the public policy of this State, pursuant to paragraphs (h) and (i) of Section 6 of Article VII of the Illinois Constitution of 1970, that any power or function set forth in this Act to be exercised by the State is an exclusive State power or function. Such power or function shall not be exercised concurrently, either directly or indirectly, by any unit of local government, including home rule units, except as otherwise provided in this Act.
>
> Nothing in this Section shall be construed to affect or impair the validity of Section 11–11.1–1 of the 'Illinois Municipal Code', approved May 29, 1961, as amended, or to deny to the corporate authorities of any municipality the powers granted in that Act to: enact ordinances prescribing fair housing practices, defining unfair housing practices, establishing Fair Housing or Human Relations Commissions and standards for the operation of such commissions in the administration and enforcement of such ordinances; prohibiting discrimination based on race, color, creed, ancestry, national origin or physical or mental handicap in the listing, sale, assignment, exchange, transfer, lease, rental or financing of real property for the purpose of the residential occupancy thereof; and prescribing penalties for violations of such ordinances."

Here the General Assembly clearly determined that the State had the exclusive power to regulate the licensing of real estate brokers and salesmen. What was left to the municipality were the powers given by section 11–11.1–1 of the Illinois Municipal Code (Ill. Rev. Stat. 1975, ch. 24, par. 11–11.1–1). These had to do with the enactment of antidiscrimination ordinances. No authority granted under section 11–11.1-1 of the Illinois Municipal Code has to do with the licensing of real estate brokers. Defendants' argument that such is necessary to enforce such antidiscrimination ordinances is without merit. These laws can be enforced by imposing penalties without the power to license real estate brokers and salesmen.

The invalidity of the ordinance is clear when evaluated in terms of the Constitution and the statute. Although not requisite to the present situation, the intent of the legislature not to grant concurrent powers to municipalities to license real estate brokers is underscored by the rejection of the following offered amendments which were defeated.

> "(a) Amendment No. 6. Amend Senate Bill 1502 on page 1, line 17, by inserting after the period the following: 'Nothing in this Section (Sec. 24) shall be construed to invalidate or prohibit the enforcement of any ordinance enacted by the corporate authorities of a municipality prior to the effective date of this amendatory Act of 1974 pursuant to powers granted to such corporate authorities by Section 11–11.1–1 of the "Illinois Municipal Code", approved May 29, 1961, as amended.'; and
>
> (b) Amendment No. 7. Amend Senate Bill 1502 on page 1, line 17, by inserting after the period the following: 'Any home rule power or function which is not specifically set forth in this Act as a power or function to be exercised by the State may be exercised by home rule units including, but not limited to, the power: to define unfair housing practices; to establish Fair Housing or Human Relations Commissions and provide them with enforcement procedures; to prohibit discrimination based on race, color, creed, ancestry, national origin, or physical or mental handicap in the listing, sale, assignment, exchange, transfer, lease, rental or financing of real property for the purpose of residential occupancy thereof; and to prescribe penalties for violations of such ordinances.'"

Nor are we in new waters. Our course is charted by *United Private Detective & Security Association, Inc.* v. *City of Chicago* (1976), 62 Ill. 2d 506. There the State had enacted, by a simple majority vote, an act giving the State the power to license detectives and detective agencies. Subsequently the city of Chicago enacted an ordinance which required persons or agencies registered with the State to obtain a license from the city as well.



Various persons registered with the State sued to declare the ordinance invalid because it contravened a provision in the State license statute whereby the power to regulate the private detective business "shall be exercised exclusively by the State and may not be exercised by any unit of local government, including home rule units." Defendants contended that since the statute had been passed by less than a three-fifths vote, it could only preempt local regulation in areas where the State was already regulating, and left local units free to regulate the business in other respects. The trial court agreed and dismissed the suit. This court reversed, holding that the preemption provision could not be so narrowly read. The court also held that the new statute repealed by implication existing laws authorizing local units to regulate the private detective business and that express repeal of these prior licensing laws was unnecessary. The same is true here. It was not necessary for the General Assembly to insert into the general licensing act (Ill. Rev. Stat. 1975, ch. 24, par. 11–42–1) the preemption declared by section 24 of Public Act 78–1208, or to delete the term 'brokers" from the general act.

The city of Chicago argues, however, that even if the amendment to the Real Estate Brokers and Salesmen License Act is deemed to have preempted local governmental units from licensing, that effect was dissipated on September 7, 1974, with the enactment of Public Act 78–1237, which was approved on that date. Public Act 78–1237 amended the general licensing section of the Illinois Municipal Code (Ill. Rev. Stat. 1975, ch. 24, par. 11–42–1) by the addition of the words italicized below:

> "The corporate authorities of each municipality may license, tax, and regulate auctioneers, private detectives, money changers, bankers, brokers *other than insurance brokers,* barbers, and the keepers or owners of lumber yards, lumber storehouses, livery stables, public scales, ice cream parlors, coffee houses, florists, detective agencies, barber shops and sellers of tickets for theatricals, shows, amusements, athletic events and other exhibitions at a place other than the theatre or location where the theatri-

cals, shows, amusements, athletic events and other exhibitions are given or exhibited." 1974 Ill. Laws 1203, Ill. Rev. Stat. 1975, ch. 24, par. 11–42–1.

Since the term "brokers" was previously held to include real estate brokers (*Chicago Real Estate Board* v. *City of Chicago* (1967), 36 Ill. 2d 530), the city contends that the failure of the legislature to delete the term "brokers" when Public Act 78–1237 was enacted shows an intention to restore the former licensing power of local governments.

We do not find the argument persuasive. There are multiple types of brokers apart from insurance and real estate brokers, such as brokers of perishable agricultural commodities, stock brokers, and warehouse brokers, to mention a few. The general rule where two acts relating to the same subject matter are enacted at the same session of the General Assembly was stated in *People ex rel. Dickey* v. *Southern Ry. Corp.* (1959), 17 Ill. 2d 550:

> "For a later enactment to operate as a repeal by implication of an earlier one there must be such total and manifest repugnance that the two cannot stand together. * * *
>
> * * *
>
> * * * [I]n the absence of a clear legislative intent to the contrary and where two acts are not so inconsistent that both cannot stand and be given effect, a later law which is merely a re-enactment of a former law does not repeal an intermediate act which has qualified or limited the first one, but the intermediate act will be deemed to remain in force and to qualify or modify the new act in the same manner as it did the first." 17 Ill. 2d 550, 555-56.

The retention in Public Act 78–1237 of the term "brokers" did not serve to repeal section 24 of Public Act 78–1208.

The ordinances in question are void.

The judgment of the circuit court of Cook County is affirmed.

*Judgment affirmed.*

CLARK and MORAN, *JJ.*, took no part in the consideration or decision of this case.



## APPENDIX B.

State of Illinois
Office of
CLERK OF THE SUPREME COURT
Springfield
62706

November 23, 1977

Mr. Jack Siegel
Corporation Counsel
City of Evanston
1501 Oak Ave.
Evanston, Ill. 60201

Nos. 48832-48841 Cons. — Lee J. Andruss, Jr., etc., et al., appellees, vs. The City of Evanston, Illinois, et al., etc., appellants. Appeal, Circuit Court (Cook).

The Supreme Court today denied the petition for rehearing in the above entitled cause. Mr. Justice Clark and Mr. Justice Moran took no part.

Very truly yours,

/s/ CLELL L. WOODS,
*Clerk of the Supreme Court.*

## APPENDIX C.

### AMENDMENT XIV, CONSTITUTION OF THE UNITED STATES.

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

### PUBLIC ACT 78–1208

Illinois Revised Statutes, 1975, Chapter 114½.

"115. *Refusal to issue or renew certificate—Suspension or revocation of certificate—Causes.*] § 15. The Department may refuse to issue or renew, may suspend or may revoke any certificate of registration for any one or any combination of the following causes:

* * *

17. Soliciting for sale, lease, listing or purchase any residential real estate due to present or prospective entry into the vicinity of the property of persons of a particular race, color, religion or national origin;

18. Distributing any written material or making any oral statement designed to induce any owner of real estate to sell or lease because of any present or prospective changes in the race, color, religion or national origin of persons on any given street, block, neighborhood or community;

19. Intentionally creating any alarm or fear of the residents of a neighborhood community by transmitting in any manner, including telephone, any warnings or threats or



other communications designed to induce owners to sell or lease real estate because of any present or prospective entry into the community of persons of a particular, race, color, religion or national origin;

* * *

23. Entering into a listing agreement which prohibits the sale or rental of real estate to any person because of race, color, religion or national origin.

24. Acting or undertaking to act as a real estate broker or real estate salesman with respect to any property the disposition of which is prohibited to any person because of race, color, religion or national origin.

* * *

26. Making any misrepresentations concerning the race, color, religion or national origin of persons in a locality or any part thereof for the purpose of inducing or discouraging a listing for sale or rental or the sale or rental of any real estate.

27. Refusing to sell or rent real estate because of race, color, religion or national origin.

28. Refusing to show listings or real estate because of the race, color, religion or national origin of any prospective purchaser, lessee or tenant, or because of the race, color, religion or national origin of the residents in the area in which the property is located.

29. Representing to any person that any real estate is not available for inspection, purchase, sale, lease or occupancy, when in fact it is so available, or otherwise to withhold real estate from any person because of race, color, religion or national origin.

30. Influencing or attempting to influence by any words or acts a prospective seller, purchaser, occupant, landlord or tenant of real estate, in connection with viewing, buying or leasing of real estate, so as to promote, or tend to promote, the continuance or maintenance of racially and religiously segregated housing, or so as to retard, obstruct or discourage racially integrated housing on or in any street, block, neighborhood or community.

31. Volunteering of information on the race, color, religion or national origin of the residents of a community or part thereof.

32. Publishing or circulating any written materials or oral statements or announcing a policy or using any form of application for the purchase, lease, rental or financing of real estate, or making any record or inquiry in connection with the prospective purchase, rental or lease of real estate which express any limitation or discrimination because of race, color, religion or national origin.

33. Making differential treatment against any person to his detriment because of race, color, religion or national origin."

* * *

124. § 24. *Public policy.* It is declared to be the public policy of this State, pursuant to paragraphs (h) and (i) of Section 6 of Article VII of the Illinois Constitution of 1970, that any power or function set forth in this Act to be exercised by the State is an exclusive State power or function. Such power or function shall not be exercised concurrently, either directly or indirectly, by any unit of local government, including home rule units, except as otherwise provided in this Act.

"Nothing in this Section shall be construed to affect or impair the validity of Section 11–11.1–1 of the 'Illinois Municipal Code', approved May 29, 1961, as amended, or to deny to the corporate authorities of any municipality the powers granted in that Act to: enact ordinances prescribing fair housing practices, defining unfair housing practices, establishing Fair Housing or Human Relations Commissions and standards for the operation of such commissions in the administration and enforcement of such ordinances; prohibiting discrimination based on race, color, creed, ancestry, national origin or physical or mental handicap in the listing, sale, assignment, exchange, transfer, lease, rental or financing of real property for the purpose of the residential occupancy thereof; and prescribing penalties for violations of such ordinances.

"Added by P.A. 78–1208, § 1, eff. Sept. 5, 1974."



## EXCERPTS FROM EVANSTON FAIR HOUSING ORDINANCE.

**Section 25½-10. Standard of Conduct.**

It shall be unlawful for any real estate broker, acting with respect to Evanston real estate, to do any of the following:

(a) Make any substantial misrepresentation or false promise likely to induce, persuade, or influence or engage in untruthful advertising, or pursue a continued or flagrant course of misrepresenting or the making of false promises, through agents or salesmen or otherwise.

(b) Act for more than one party in a transaction without the knowledge of all parties to the transaction.

(c) Fail to furnish copies, upon request, of all documents for which the broker is professionally responsible relating to a real estate transaction to all parties executing the same, or fail to account for or to remit any moneys or documents coming into his possession which belong to others.

(d) Fail to maintain and deposit in a special account, separate and apart from his personal or other business accounts, all moneys belonging to others entrusted to him while acting as a real estate broker, or as escrow agent, or as the temporary custodian of the funds of others, until the transaction involved is consummated or terminated.

(e) Pay a commission or valuable consideration to any person for acts or services performed in violation of this ordinance.

(f) Employ any person as a salesman or agent as a means of evading provisions of this ordinance.

(g) Display a 'for rent' or 'for sale' sign on any property without the written consent of the owner or his duly authorized agent, or advertise that any property is for sale or for rent in a newspaper or other publication without the consent of the owner or his authorized agent.

(h) Fail to promptly present to his principal any and all offers for sale, lease, or rental of real estate; or set the price, terms, conditions, or privileges of any kind relating to the sale, lease, rental, financing, repair, rehabilitation, construction, maintenance, or occupancy of real estate.

(i) Solicit for sale, lease, or rental, real estate on the grounds of loss of value due to the present, prospective, or alleged entry into the vicinity of any person or persons of any particular race, color, religion, or national origin, or distribute or cause to be distributed written material or statements designed to induce any owner of real estate to sell, lease, or rent his property because of any present, prospective, or alleged change in the race, color, religion, or national origin of persons in the vicinity.

(j) Refuse to show to any person who has specified his needs the list or other records identifying all properties reasonably meeting such needs which the broker is offering, including those on any multiple listing of real estate to which he has access in the course of his business.

(k) Circulate, advertise, display or cause to be circulated, advertised, or displayed any communication, notice, advertisement, or sign relating to the sale, rental, or leasing of any real property which will indicate or express any limitation in the sale, rental, or leasing of such real estate predicated upon the race, color, religion, or national origin of any prospective buyer, lessee, or renter of such property.



(l) Fail to show real estate because of the race, color, religion, or national origin of any prospective purchaser, lessee, or tenant, or because of the race, color, religion, or national origin of the residents in the area in which the property is located.

(m) Recommend, solicit, or encourage, in any manner, any restrictions upon the listing, showing, sale, leasing, or rental of property, or knowingly to participate in discrimination in connection with borrowing or lending money or in any other activities relative to the financing for the acquisition, construction or improvement of real estate because of the race, color, religion, or national origin of the prospective occupant of the premises.

(n) Fail within a reasonable time, to provide information requested by the person charged with enforcement of this ordinance as a result of a complaint alleging a violation of the ordinance.

(o) Cheat, exploit, or overcharge any person for residential housing accommodations.

(p) Fail to post in a prominent place available for observation by the public in each of his business establishments the broker's license issued under the provisions of this ordinance.

* * *

**VI. Evanston Fair Housing Review Board.**
**Section 25½-17. Powers and Duties of Board.**

* * *

The Board shall be empowered at the conclusion of such proceedings, and as part of its report, to suspend or revoke, for a period not to exceed one year, the license of any broker

licensed by the City of Evanston who shall have been a respondent to any proceedings thus filed and found guilty of violation of any applicable provision of the within ordinance. Any broker whose license has been suspended or revoked, or any complainant aggrieved by the decision of the Board, shall have full right to appeal from such order of suspension or revocation in accordance with procedures specified in the Administrative Review Act of Illinois. The order of the Board shall be final. It shall serve a copy thereof upon the respondent, and any appeal may be taken thereafter.